

MINUTES
REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS
CITY OF OWOSSO
AUGUST 21, 2018 AT 9:30 A.M.
CITY COUNCIL CHAMBERS

CALL TO ORDER: The meeting was called to order by Chairman Randy Horton at 9:35 a.m.

ROLL CALL: Was taken by Tanya Buckelew.

MEMBERS PRESENT: Chairman Randy Horton, Board Members Matthew Grubb and Kent Telesz

MEMBERS ABSENT: Vice-Chairman Christopher Eveleth, Board Member Tom Taylor and Alternate John Horvath

OTHERS PRESENT: Ms. Amy Cyphert, Assistant City Manager and Director of Community Development; Mark Agnew, Agnew Graphics, David Wakeland, Wakeland Oil and Sam McLaren.

AGENDA:

IT WAS MOVED BY BOARD MEMBER GRUBB AND SUPPORTED BY BOARD MEMBER TELESZ TO APPROVE THE AGENDA FOR THE AUGUST 21, 2018 REGULAR MEETING AS PRESENTED.

YEAS: ALL. MOTION CARRIED.

MINUTES:

IT WAS MOVED BY BOARD MEMBER TELESZ AND SUPPORTED BY BOARD MEMBER GRUBB TO APPROVE THE MINUTES OF JUNE 19, 2018 WITH A CHANGE TO THE MINUTES APPROVED MOTION AS IT WAS SUPPORTED BY BOARD MEMBER TAYLOR NOT CHAIRMAN HORTON.

YEAS: ALL. MOTION CARRIED.

OLD BUSINESS: - None

NEW BUSINESS/PUBLIC HEARINGS:

- (1) **APPLICANT:** Wakeland Oil Co.
CASE # 2018-03: Parcel 050-700-001-001-00
PROPERTY ZONING: B-4 General Business Districts
LOCATION OF APPEAL: 427 W. Main Street, Owosso, MI 48867

APPEAL: The petitioner is seeking a variance from Article XII. B-4 General Business Districts, Section 38-268, (4) b. which states *Business in the character of a drive-in or open front store, subject to the following conditions: Access points shall be located at least sixty (60) feet from the intersection of any two (2) streets.*

The petitioner is seeking a variance to allow a drive-in pharmacy on the site where two existing access points are within 60 feet of the intersection of two (2) streets.

Dave Wakeland, Owner, spoke about his intent with this property and adding a drive through pharmacy to the existing building. Site Plan was presented to the board members indicating the flow of traffic and parking. Mr. Wakeland closed the gas station in 2012. The DNR has approved that the tanks be left in the ground and the tops will be cut off and backfilled with pea stone.

Sam McLaren has been working with Mr. Wakeland on this project. He spoke about setbacks and curb cuts with other drive throughs and expressed he did not see a need to close them off. The Site Plan shows the stacking and bail out lane. In addition, the downspouts will be directed to the storm drain.

Ms. Cyphert spoke about the staff review of the plan and that Mr. Wakeland had revised the Site Plan per the suggestions of City Staff for a better and safer traffic flow.

Approved *minutes 08-21-2018*

FINDINGS OF FACT AND CONCLUSIONS

Record of Proceedings. The documents were reviewed and considered by the Zoning Boards of Appeals in reaching its decision, in addition to the comments made by Applicant, and members of the Board.

UPON MOTION OF BOARD MEMBER GRUBB, SECONDED BY BOARD MEMBER TELESZ, THE FOLLOWING FINDINGS, CONCLUSIONS, DECISIONS, AND CONDITIONS WERE ADOPTED BY THE BOARD AS ITS DECISION ON THE ABOVE VARIANCE. THE APPLICANT DOES MEET ALL NINE (9) FACTS OF FINDINGS:

Factor 1: (Section 38-504(3) a.1.) “Will not be contrary to the public interest or to the intent and purpose of this chapter.”

Factor 2: (Section 38-504(3) a.2.) “Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required.”

Factor 3: (Section 38-504(3) a.3.) “Is one that is unique and not shared with other property owners.”

Factor 4: (Section 38-504(3) a.4.) “Will relate only to property that is under control of the applicant.”

Factor 5: (Section 38-504(3) a.5.) “Is applicable whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.”

Factor 6: Section 38-504(3) a.6.) “Was not created by action of the applicant (i.e., that it was not self-created.)

Factor 7: Section 38-504(3) a.7.) “Will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets or increase the danger of fire or endanger the public safety.”

Factor 8: Section 38-504(3) a.8.) “Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.”

Factor 9: Section 38-504(3) a.9.) “Is applicable whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.”

Special Conditions.

1. “Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.”

The Board finds that Section 38-504(3) b.1. has been met due to an unnecessary hardship would occur in closing the 2 curb cuts as the process and paperwork would take 6 to 8 months.

2. “Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district.”

The Board finds that Section 38-504(3) b.2. has been met as the nature of the pharmacy business would have less traffic flow and less drive through traffic compared to a drive thru restaurant.

3. “Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.”

The Board finds that Section 38-504(3) b.3. has been met as it would be less intrusive to traffic flow.

The request for a variance is approved for the above reasons.

The above findings, conclusions and decision were adopted by roll call vote as follows:
AYES: BOARD MEMBERS GRUBB, TELESZ AND CHAIRMAN HORTON
NAYS: NONE

(2) **APPLICANT:** Agnew Signs
CASE # 2018-04: Parcel 050-651-000-033-00
PROPERTY ZONING: I-1, Light Industrial Districts
LOCATION OF APPEAL: 503 S. Shiawassee St, Owosso, MI 48867

APPEAL: The petitioner is seeking a variance from Chapter 26 – Signs, Article IV. General Provisions, Sec. 26-18. - Prohibited signs which states *the following signs are prohibited in all districts: (9) Pylon or pole signs not provided for in this chapter*

The petitioner is seeking a variance to allow a pole sign totaling 14 feet tall and 48 square feet per side of sign area and an additional square footage on the pole for the company logo.

Mark Agnew, Agnew Graphics and also the applicant spoke about the request and the need for the poor sign ordinance to be revised. This pole sign is for Curwood Storage and the building sits to the rear of the lot, making it difficult to be noticed. A pole sign would be more effective than utilizing the existing ground sign on a road with multiple lanes of traffic.

Resolution 180821-04 FINDINGS OF FACT AND CONCLUSIONS

Record of Proceedings. The documents were reviewed and considered by the Zoning Boards of Appeals in reaching its decision, in addition to the comments made by Applicant, and members of the Board.

UPON MOTION OF BOARD MEMBER TELESZ, SECONDED BY BOARD MEMBER GRUBB, THE FOLLOWING FINDINGS, CONCLUSIONS, DECISIONS, AND CONDITIONS WERE ADOPTED BY THE BOARD AS ITS DECISION ON THE ABOVE VARIANCE. THE APPLICANT DOES MEET ALL NINE (9) FACTS OF FINDINGS:

Factor 1: (Section 38-504(3) a.1.) “Will not be contrary to the public interest or to the intent and purpose of this chapter.”

The Board finds that Section 38-504(3) a.1. has been met for the following reasons: the purpose for a pole sign is safety and the old sign must be removed

Factor 2: (Section 38-504(3) a.2.) “Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required.”

The Board finds that Section 38-504(3) a.2 is N/A**

Factor 3: (Section 38-504(3) a.3.) “Is one that is unique and not shared with other property owners.”

The Board finds that Section 38-504(3) a.3. has been met for the following reasons: building placement at the rear of the property and the storage units being blocked by the historical building.

Factor 4: (Section 38-504(3) a.4.) “Will relate only to property that is under control of the applicant.”

The Board finds that Section 38-504(3) a.4. has been met for the following reasons: building placement.

Factor 5: (Section 38-504(3) a.5.) “Is applicable whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.”

The Board finds that Section 38-504(3) a.5 is N/A**

Factor 6: Section 38-504(3) a.6.) “Was not created by action of the applicant (i.e., that it was not self-created.)

The Board finds that Section 38-504(3) a.6. has been met

Factor 7: Section 38-504(3) a.7.) “Will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets or increase the danger of fire or endanger the public safety.”

The Board finds that Section 38-504(3) a.7. has been met

Factor 8: Section 38-504(3) a.8.) “Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.”

The Board finds that Section 38-504(3) a.8. has been met

Factor 9: Section 38-504(3) a.9.) “Is applicable whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.”

The Board finds that Section 38-504(3) a.9. has been met for the following reasons: history applied to pole signs

*****N/A means due to the 9 conditions are zoning based variance factors, not sign variance related.***

Special Conditions.

1. “Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.”

The Board finds that Section 38-504(3) b.1. is met due to the multiple lane of traffic on M-52 and seeing a ground sign would be difficult.

2. “Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district.”

The Board finds that Section 38-504(3) b.2. has been met due to the building placement at the rear of the property and the storage units being blocked by the historical building

3. “Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.”

The Board finds that Section 38-504(3) b.3. is met due to other properties having pole signs.

The request for a variance is approved for the above reasons.

The above findings, conclusions and decision were adopted by roll call vote as follows:

AYES: BOARD MEMBERS TELESZ, GRUBB AND CHAIRMAN HORTON

NAYS: NONE

POLE SIGNS RECOMMENDATION TO THE PLANNING COMMISSION AND COUNCIL:

BY BOARD MEMBER GRUBB AND SUPPORTED BY BOARD MEMBER TELESZ TO RECOMMEND TO THE PLANNING COMMISSION AND CITY COUNCIL TO REVIEW THE SIGN ORDINANCE AS IT RELATES TO POLE SIGNS AND WHETHER THE INTENT WAS TO ALLOW POLE SIGNS OR NOT. IN ADDITION, THE ZBA BOARD MEMBERS REQUEST THE CRITERIA FOR GRANTING SIGN VARIANCES BE ESTABLISHED.

ROLL CALL VOTE:

AYES: BOARD MEMBERS GRUBB, TELESZ AND CHAIRMAN HORTON

NAYS: NONE

(3) **APPLICANT:** City Staff
CASE # 2018-04: NA
PROPERTY ZONING: NA
LOCATION OF APPEAL: NA

Interpretation requested of Sec. 26-21. - Specific sign standards. *Footnotes to the Sign Dimensional Standards and Regulations Table (b).*

Staff is looking for an interpretation of applying the above to campuses that include multiple parcels, services/businesses/buildings, multiple road frontage and interior roads.

CAMPUS SIGNS RECOMMENDATION TO THE PLANNING COMMISSION AND COUNCIL:

MOTION BY BOARD MEMBER TELESZ AND SUPPORTED BY BOARD MEMBER GRUBB TO RECOMMEND TO THE PLANNING COMMISSION AND CITY COUNCIL TO REVIEW THE SIGN ORDINANCE AS IT RELATES TO CAMPUSES AND THE SIGNS LOCATED IN VARIOUS AREAS ON THE PROPERTY NOT JUST IN THE RIGHT-OF-WAY

ROLL CALL VOTE:

AYES: BOARD MEMBERS TELESZ, GRUBB AND CHAIRMAN HORTON

NAYS: NONE

OTHER BOARD BUSINESS

APPOINTMENT OF BOARD SECRETARY:

MOTION BY BOARD MEMBER TELESZ AND SUPPORTED BY BOARD MEMBER GRUBB TO APPOINT BOARD MEMBER GRUBB AS SECRETARY OF THE ZONING BOARD OF APPEALS BOARD, DUE TO THE RECENT VACANCY OF THE FORMER SECRETARY.

ROLL CALL VOTE:

AYES: BOARD MEMBERS GRUBB, TELESZ AND CHAIRMAN HORTON

NAYS: NONE

Annual Board Elections will be held at the September 2018 meeting

PUBLIC COMMENTS AND COMMUNICATIONS

NONE

ADJOURNMENT:

MOTION BY BOARD MEMBER TELESZ AND SUPPORTED BY BOARD MEMBER GRUBB TO ADJOURN AT 11:40 A.M. UNTIL THE NEXT REGULARLY SCHEDULED MEETING ON TUESDAY, SEPTEMBER 18, 2018, IF ANY REQUESTS ARE RECEIVED.

YEAS: ALL. MOTION CARRIED.

Matthew Grubb, Secretary